

JAN 30 2004
Place On Calendar

HOUSE FILE 2135
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 2034)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring consent of the parent of a minor to obtain body
2 piercing and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2135

H-8031

1 Amend House File 2135 as follows:
2 1. Page 1, by inserting after line 21, the
3 following:
4 "c. Establish minimum safety and sanitation
5 criteria for the operation of body piercing
6 establishments."
7 2. Page 1, line 35, by inserting after the word
8 "person" the following: "or establishment".
9 3. Page 2, line 2, by inserting after the word
10 "person" the following: "or establishment".
11 4. By renumbering as necessary.

By SHOULTZ of Black Hawk

1 **H-8031** FILED FEBRUARY 17, 2004

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HF 2135

1 Section 1. NEW SECTION. 135.37A BODY PIERCING -- MINORS
2 -- PENALTY.

3 1. For the purposes of this section:

4 a. "Body piercing" means for commercial purposes the act
5 of penetrating the skin to make a hole, mark, or scar and
6 includes the use of a mechanized, presterilized, ear-piercing
7 system that penetrates the outer perimeter or lobe of the ear,
8 or both.

9 b. "Minor" means an unmarried person who is under the age
10 of eighteen years.

11 c. "Parent" means a parent, legal guardian, or legal
12 custodian of a minor.

13 2. A person shall not provide body piercing to a minor
14 unless the written consent of a parent of the minor has been
15 obtained prior to any body piercing being provided.

16 3. The department shall do all of the following:

17 a. Prescribe the form used in obtaining written consent
18 from the parent of a minor under this section.

19 b. Provide exceptions to subsection 2 for persons who
20 perform or receive body piercing pursuant to a recognized
21 religious tenet or cultural practice.

22 4. A person who provides body piercing to a minor in
23 violation of subsection 2 is guilty of a serious misdemeanor.

24 5. It is an affirmative defense to a violation of
25 subsection 2 that the person providing the body piercing was
26 presented with a driver's license, as defined in section
27 321.1, subsection 20A, or a nonoperator's identification card
28 issued pursuant to section 321.190, offered by the individual
29 who wishes to be provided body piercing, demonstrating that
30 the individual is not a minor, and the person providing the
31 body piercing has a reasonable belief based on factual
32 evidence that the identification is not altered, falsified, or
33 belongs to another individual.

34 6. If the department determines that this section has been
35 or is being violated, the department may order that a person

1 cease providing body piercing until the necessary corrective
2 action has been taken. If the person continues to provide
3 body piercing in violation of the order of the department, the
4 department may request that the county attorney or the
5 attorney general make an application in the name of the state
6 to the district court of the county in which the violation has
7 occurred for an order to enjoin the violation. This remedy is
8 in addition to any other legal remedy available to the
9 department.

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EXPLANATION

11 This bill prohibits a person from providing body piercing
12 to a minor unless the person obtains the written consent of a
13 parent of the minor prior to the provision of any body
14 piercing. A person who provides body piercing in violation of
15 the bill is guilty of a serious misdemeanor.

16 The bill provides that it is an affirmative defense to a
17 violation of the body piercing provisions that the person
18 providing the body piercing was provided with identification
19 showing that the individual seeking the body piercing is not a
20 minor and the person providing the body piercing reasonably
21 believes that identification is not altered, falsified, or
22 belongs to another individual. The bill directs the Iowa
23 department of public health to prescribe the form to be used
24 in obtaining a parent's written consent, and provide for
25 exceptions for performing or receiving body piercing as
26 prohibited in the bill based upon religious tenets or cultural
27 practices. The bill also provides that if the department
28 determines that a person providing body piercing has been or
29 is violating the prohibition, the department may order the
30 person to cease operation until the necessary corrective
31 action has been taken. The bill provides that if the person
32 continues to operate in violation of the order of the
33 department, the department may seek an injunction to enjoin
34 the violation.

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**EIGHTIETH GENERAL ASSEMBLY
2004 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

FEBRUARY 5, 2004

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

HF 2135 - Body Piercing (LSB 5504 HV)

Analyst: Lisa Burk (Phone: (515) 281-7942 (lisa.burk@legis.state.ia.us))

Fiscal Note Version - New

Description

House File 2135 prohibits an individual from providing body piercing, including ear piercing, to a minor without obtaining written consent from the minor's parent prior to the procedure, and provides that performing body piercing without parental consent is a serious misdemeanor.

House File 2135 also requires the Department of Public Health to develop the form to be used in obtaining written parental consent and to provide for exceptions based on religious tenets or cultural practices. In addition, the Bill provides that if the Department determines that an individual providing body piercing to a minor does not obtain the written consent of a parent, the Department may order the establishment to cease operation or may request that the county attorney or the Attorney General seek an injunction against the establishment.

Assumptions

1. The total number of establishments that provide body piercing, including ear piercing, is unknown.
2. The Department of Public Health will develop and distribute the consent form to an undetermined number of establishments, and will provide educational outreach regarding the law.
3. The Department of Public Health will have to determine which religious tenets and cultural practices that include body piercing qualify as exceptions to the law.
4. The Department of Public Health will receive and investigate 50 complaints per year regarding body piercing procedures performed on minors without parental consent, as well as provide for enforcement.
5. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
6. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
7. The law will become effective July 1, 2004. A lag effect of six months is assumed from the law's effective date to the date of first entry of affected offenders into the correctional system (to allow for court case processing time).
8. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2003 data.
9. The median cost per case for indigent defense for a serious misdemeanor is \$500.
10. The marginal cost per inmate for jail time served is \$15 per day.

11. The marginal cost per day for probation is \$1.88 per offender. The average length of stay for a serious misdemeanor is 14 months on probation.
12. The average cost for serious misdemeanor trials without a jury is \$99 per case. (The average cost for one jury trial is \$489.)
13. The average length of stay in jail is 10 days for the violation of body piercing regulations.

Correctional Impact

The correctional impact for HF 2135 is anticipated to be minimal. The Bill will put one individual in jail per year. Based on FY 2003 data, seven individuals will be convicted per year of providing body piercing to a minor without parental consent. (In the first year, there will be four convictions due to the six-month lag). Also, in the first year, one person will be placed on probation and for each year thereafter two people will be placed on probation.

Fiscal Impact

The fiscal impact of HF 2135 is as follows:

<u>State</u>	<u>Year 1</u>		<u>Year 2</u>		<u>Year 5</u>	
	<u>FY 2005</u>	<u>FTEs</u>	<u>FY 2006</u>	<u>FTEs</u>	<u>FY 2009</u>	<u>FTEs</u>
Public Health	\$65,000	1.0	\$65,000	1.0	\$65,000	1.0
Corrections - Probation	1,000		2,000		2,000	
Court Costs	1,000		2,000		2,000	
Total	<u>\$67,000</u>	<u>1.0</u>	<u>\$69,000</u>	<u>1.0</u>	<u>\$69,000</u>	<u>1.0</u>

House File 2135 will require the Department of Public Health to add 1.0 FTE position for an Environmental Specialist and associated support costs to provide for administration and enforcement associated with the Program (as reflected above).

House File 2135 is expected to have a minimal impact on local jail costs (less than \$500 annually).

Sources

Attorney General
 Department of Human Rights, Criminal and Juvenile Justice Planning Division
 Department of Public Health

Dennis C Prouty

February 3, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
